

REMARKS

This Application has been carefully reviewed in light of the Decision on Appeal issued March 18, 2008. Claims 1-4 and 6-44 are pending in this Application. In order to advance prosecution of this Application, Claims 1-3, 6, 8-12, 14, 16-18, 23-31, 36, and 40-44 have been amended. Applicant respectfully requests reconsideration and favorable action in this Application.

Claims 1, 6-8, 11-13, 15-23, 30-33, 35, and 37-44 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Colyer in view of Moyal. Independent Claims 1, 25, and 30 recite in general an ability to receive a request for data, queue the request for data in response to an origin server not being available to process the request for data, determine that an origin server becomes available to process the request for data, and return the request for data and a permission indicator in order to retrieve data associated with the request for data from the origin server for delivery to a client computer. By contrast, the Colyer patent stores all requests in a queue and the server pulls a request from the queue when it is ready. Thus, the Colyer patent is not capable of storing a request for data in a queue in response to an origin server being unavailable to process the request for data as required by the claimed invention. In addition, the Colyer patent is not capable of returning a request for data with a permission indicator in response to the origin server becoming available as required by the claimed invention. Similarly, the Moyal patent discloses placing all packets into a plurality of queues and arbitrates among those queues to forward a packet placed therein. Accordingly, the Moyal patent is not capable of storing a request for data in a queue in response to an origin server being unavailable to process the request for data as required by the claimed

invention. In addition, the Moyal patent is not capable of returning a request for data with a permission indicator in response to the origin server becoming available as required by the claimed invention. Support for the above recitation can be found at page 31, lines 3-9, of Applicant's specification. Therefore, Applicant respectfully submits that Claims 1, 6-8, 11-13, 15-23, 30-33, 35, and 37-44 are patentably distinct from the proposed Colyer - Moyal combination.

Claims 2-4, 9, 10, 25-28, 34, and 36 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Colyer in view of Moyal and further in view of Starnes, et al. Independent Claim 1, from which Claims 2-4, 9, and 10 depend, and Independent Claim 30, from which Claims 34 and 36 depend, have been shown above to be patentably distinct from the proposed Colyer - Moyal combination. In addition, Independent Claim 25 includes similar features found in Independent Claims 1 and 30 and shown above to be patentably distinct from the proposed Colyer - Moyal combination. Moreover, the Starnes, et al. patent does not include any additional disclosure combinable with either the Colyer or Moyal patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 2-4, 9, 10, 25-28, 34, and 36 are patentably distinct from the proposed Colyer - Moyal - Starnes, et al. combination.

Claims 14 and 29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Colyer in view of Moyal and further in view of Reeder. Independent Claim 1, from which Claim 14 depends, and Independent Claim 25, from which Claim 29 depends, have been shown above to be patentably distinct from the proposed Colyer - Moyal combination. Moreover, the Reeder patent does not include any additional disclosure combinable with either the Colyer or Moyal patents that would be material

to patentability of these claims. Therefore, Applicant respectfully submits that Claims 2-4, 9, 10, 25-28, 34, and 36 are patentably distinct from the proposed Colyer - Moyal - Reeder combination.

Claim 24 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Colyer in view of Moyal and further in view of Rune. Independent Claim 1, from which Claim 24 depends, has been shown above to be patentably distinct from the proposed Colyer - Moyal combination. Moreover, the Rune patent does not include any additional disclosure combinable with either the Colyer or Moyal patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claim 24 is patentably distinct from the proposed Colyer - Moyal - Rune combination.

Please charge Deposit Account No. 02-0384 an amount of \$405.00 to satisfy the request for continued examination fee of 37 C.F.R. §1.17(e).

CONCLUSION

Applicant has now made an earnest attempt to place this Application in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending claims.

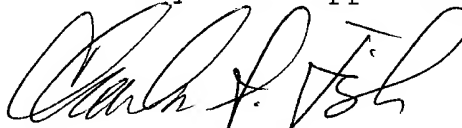
If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the undersigned attorney for Applicant stands ready to conduct such a conference at the convenience of the Examiner.

The Commissioner is hereby authorized to charge any required fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

Attorneys for Applicant

A handwritten signature in black ink, appearing to read "Charles S. Fish", is written over the printed name.

Charles S. Fish

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